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\*NOT ADMITTED TO THE NEW YORK BAR

January 20, 2017

**VIA ECF**

The Hon. Keith P. Ellison  
United States District Court  
515 Rusk Avenue  
3rd Floor, Room 3716  
Houston, TX 77002

*Fentress v. Exxon Mobil Corporation, et al.*, No. 4:16-cv-03484

Dear Judge Ellison:

I write on behalf of all parties to request postponement of the February 10, 2017 scheduling conference until after (1) plaintiff files an amended complaint and (2) either the Court rules on defendants' anticipated motion to dismiss or defendants file an answer.

As the Court is aware, plaintiff commenced this action on November 23, 2016. Two days later, on November 25, 2016, before defendants were served or any other actions were taken, the Court entered an order setting a scheduling conference on February 10, 2017 at 2:45 p.m., and directing the parties to file a proposed joint discovery/case management plan ten days earlier, or January 31, 2017. (See ECF No. 3.)

The Hon. Keith P. Ellison

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Thereafter, defendants agreed to accept service of process, and the parties agreed on and the Court has approved a schedule for the filing of an amended complaint and the briefing of a motion to dismiss, as well as an agreed process for limited discovery pending a ruling on such a motion. Specifically, on December 16, 2016, the parties entered into a stipulation that, among other things, provides that defendants consent to service of process, and specifies dates by which plaintiff will file an amended complaint, defendants will move, answer, or otherwise respond, and the parties will brief a motion to dismiss. (*See* ECF No. 18 ¶¶ 4-5.) The stipulation further provides that discovery would be stayed pending resolution of any motion to dismiss, subject to certain specified exceptions. (*See id.* ¶ 6.) On December 21, 2016, the Court entered an order adopting the parties' stipulation. (*See* ECF No. 20.) On January 16, 2017, the parties filed a stipulation, subject to the Court's approval, providing for a two-week extension of time for plaintiff to file his amended complaint. (ECF No. 33.) The Court entered an order adopting the parties' stipulation on January 20, 2017. (ECF No. 34.)

Given the foregoing agreements and orders, the parties respectfully suggest that postponing the scheduling conference until after a ruling on defendants' anticipated motion to dismiss (or, if defendants answer rather than move, until the filing of an answer) would be appropriate to conserve the Court's and the parties' resources, and would allow the scheduling conference and any discovery/case management plan to take account of whatever issues remain in light of an amended complaint and the Court's ruling.

The parties are available at the Court's convenience should Your Honor have any questions or wish to hear from them further.

Respectfully submitted,

*/s/ Daniel J. Kramer*

Daniel J. Kramer

cc: All Counsel of Record (by ECF)

### **CERTIFICATE OF SERVICE**

This is to certify that on this 20th day of January, 2017, a true and correct copy of the foregoing document was filed electronically via the CM/ECF system, which gave notice to all counsel of record.

/s/ Daniel J. Kramer  
Daniel J. Kramer